

Applicants have elected Group I, Claims 1-12, with traverse.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required. (M.P.E.P. § 803) The burden of proof is on the Examiner to provide reasons and/or examples, to support any conclusion in regard to patentable distinctness (M.P.E.P. § 803). Applicants respectfully traverse the restriction requirement on the grounds that the Examiner has not carried the burden of providing any reasons and/or examples to support any conclusion that the claims of the restricted groups are patentably distinct.

The Examiner has categorized the relationships between the groups as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness), and (2) that the subcombination can be shown to have utility either by itself or in other and different relations (M.P.E.P. § 806.05(c)).

Specifically, the Examiner has categorized the relationship between the elected Group I and Groups II or III or IV or V or VI or VII as related as combination and subcombination and that “the combination as claimed does not require the particulars of the subcombinations as claimed because Group I requires a fluoromonomer B of the formulation $\text{CF}_2=\text{CF}(\text{R}^f)_j\text{SO}_2\text{X}$, which is not required by the remaining groups. The subcombination has separate utilization such as fluoropolymer [that] may be used as a binder material.” However, the Examiner has provided no reasons in support of her belief that the liquid composition of Group II may be used as a binder material. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationship between Group II and Groups III or IV or V or VI or VII as related as combination and subcombination and that “the subcombination has separate utility such as the liquid composition can be used as a gel electrolyte material.” However, the Examiner has provided no reasons in support of her belief that the solid polymer fuel cell of Group III can be used as a gel electrolyte material. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationship between Group III and Groups IV or V or VI or VII as related as combination and subcombination and that “the subcombination has separate utility such as the solid polymer electrolyte may be used as the solid polymer electrolyte membrane between the anode and cathode of a fuel cell.” However, the Examiner has provided no reasons in support of her belief that the fluoropolymer of Group IV can be used as a membrane. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationship between Group IV and Groups V or VI or VII as related as combination and subcombination and that “the subcombination has separate utility such as a fluoropolymer [that] may be used as a membrane material or as a binder material.” However, the Examiner has provided no reasons in support of her belief that the fluoropolymer of Group V can be used as a membrane or binder. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups

are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationship between Group V and Group VI, or Group VII as related as combination and subcombination and that “the subcombination has separate utility such as a fluoropolymer [that] may be used as a membrane material or as a binder material.” However, the Examiner has provided no reasons in support of her belief that the fluoropolymer of Group VI can be used as a membrane or binder. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

The Examiner has categorized the relationship between Group VI and Group VII as related as combination and subcombination and that “the subcombination has separate utility such as a fluoropolymer [that] may be used as a membrane material or as a binder material.” However, the Examiner has provided no reasons in support of her belief that the solid polymer electrolyte membrane of Group VII can be used as a binder. In addition, the Examiner has already suggested that Group VI can be used as a membrane which has the same utility as Group VII. Accordingly, the Examiner’s reasoning is nearly a restatement of the Examiner’s conclusion that the groups are patentably distinct. As the Examiner has provided no reasons in support of her belief, the Examiner has not met the burden placed upon her and accordingly, the restriction is believed to be improper and should be withdrawn.

Application No. 10/025,763
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Applicants submit this application is now in condition for examination on the merits
and early notification of such action is earnestly solicited.

Respectfully submitted,

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